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MISCELLANY.

Legal Status of a Law Student.—“Ferring was a law student, employed by the plaintiff to advise and assist her in her suits against the defendant. But her communications to him while so employed are not privileged. A law student is, in this respect, on no higher plane than a blacksmith retained in a like service.” *Schubkagel v. Dierstein*; 131 Pa. St. 46, 54, 18 Atl. 1059, 6 L. R. A. 481.

The Last Thaw Trial.—One of the most disgraceful things in the recent history of the State of New York, which reeks with scandalous incidents, is the last trial of Harry K. Thaw for conspiracy to procure his own escape from the State Asylum for the Insane at Matteawan, which ended in the acquittal not only of himself but of all his co-defendants. As near as we can judge at this distance, with only the meager accounts of the proceedings furnished by the press dispatches, the persons who assisted Thaw to escape were guilty under the New York statute, if Thaw was insane. Presumably, the jury took the view that Thaw not being insane, though held in confinement as such, the offense did not come within the spirit of the law, which manifestly was intended to prevent the escape of insane persons from confinement. On the other hand, they may have considered that Thaw was still insane, but, realizing that to indict and try an insane person for conspiracy to effect his escape from the asylum was an outrageous abuse of the power of the courts, they may have released his co-defendants in order to show their contempt for the law officers who indicted an insane person.

We are wholly unable to understand why the case was ever allowed to go to the jury. Either Thaw was sane or insane. If sane, it was preposterous to endeavor to punish him for escaping from an insane asylum. He had a right to his liberty, even if he obtained it by a technical violation of the law. No one can suppose that the New York statute was intended to punish a sane inmate of an asylum for the insane for taking French leave. If insane, he could not possibly commit that or any other offense. Now, at the time of his escape as well as at the time of his trial, Thaw under the proceedings had in various courts was, in the eye of the law, insane. Undoubtedly all these matters were presented to the court in which he was tried, before the trial. The State should have been put to its election and compelled to take the position that Thaw was sane or that he was insane. If it took the latter position, the indictment should have been immediately quashed; and the same result should have followed the admission that he was sane at the time he effected his escape. To compel him to go to trial under such circumstances suggests the most unpleasant suspicions as to all persons having to do with his prosecution. In particular, the conduct of Mr. Jerome

in taking the leading part in persecuting a man who is either perfectly sane or a most intelligent lunatic, bringing him back from the State to which he escaped, not for the purpose of convicting him of a crime, but of continuing his incarceration in an insane asylum, requires explanation, and a great deal of it.

Thaw is now fighting for his undoubted right to be returned to the state from which he was extradited. It is the undisputed law that a person extradited for one crime can not be tried for another, and, on his acquittal of the crime for which he is extradited, he is entitled to return to the State from which he was taken, or go to any other State. The purpose, of course, is to prevent the extraditing of a person on a trumped up charge in order to secure custody of his person and then try him for some offense which is not extraditable, as a misdemeanor. Every analogy would bring the case of an alleged lunatic, who as such is not subject to extradition, from detention after he has been acquitted on a trumped up charge of crime.

Whether Thaw is sane or not is not now the question. He has been brought into the State of New York by a fraud practiced upon the courts and the governor of New Hampshire, and that State should vindicate its dignity by insisting upon Thaw being released. If he is insane, he can be taken care of in New Hampshire as well as in New York, and will have some chance of being released if he should recover his sanity.—National Corporation Reporter.

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Sworn to and subscribed before me this 24th day of March, 1915.

C. D. FISHBURNE, JR.,
Notary Public.

[SEAL]

My commission expires July 8th, 1915.